MICHIGAN DEPARTMENT OF CORRECTIONS

POLICY DIRECTIVE

EFFECTIVE DATE	NUMBER
11/01/00	03.02.130

SUPERSEDES
03.02.130 (10/11/99)

AUTHORITY
MCL 24.207(k); 791.203

SUBJECT PRISONER/PAROLEE GRIEVANCES

ACA STANDARDS
3-4017, 3-4173, 3-4271, 3-4331, 3 ACRS 3D-07

PAGE 1 OF 7

I. POLICY STATEMENT: Prisoners and parolees shall be provided with an effective method of seeking redress for alleged violations of policy and procedure or unsatisfactory conditions of confinement.

II. POLICY:

DEFINITIONS

A. Grievant - A prisoner or parolee who files a grievance.

B. Respondent - The staff person who investigates and responds to a grievance.

GENERAL INFORMATION

C. For purposes of this policy, "Warden" includes the Administrator of the Special Alternative Incarceration Program facility (SAI), unless otherwise specified.

D. The grievance process shall be equally available to all prisoners housed in Correctional Facilities Administration (CFA) and Field Operations Administration (FOA) facilities and all parolees, unless placed on modified access pursuant to this policy. Prisoners at the Michigan Youth Correctional Facility shall utilize the grievance process as set forth in PD 05.01.145 "Michigan Youth Correctional Facility".

E. Grievances may be submitted regarding alleged violations of policy and procedure or unsatisfactory conditions of confinement which directly affect the grievant. This includes alleged violations of this policy and related procedures. A grievant may grieve the application of a policy or procedure only if it affects him/her personally and it is something over which the Department has control. A prisoner or parolee may not grieve the content of policy or procedure. If a CFA prisoner has a concern with the content of a policy or procedure which personally affects the prisoner, s/he may direct comments to the Warden's Forum through the housing unit representative as provided in PD 04.01.150 "Prisoner Housing Unit Representatives/Warden's Forum". A copy of all Warden's Forum minutes shall be sent to the Prisoner Affairs Section, Office of Program Services (OPS), Administration and Programs (A&P), for review of all issues relevant to policy and procedure and the prisoner grievance process.

F. Grievances that raise the following non-grievable issues shall be rejected by the Grievance Coordinator:

1. Decisions made in hearings conducted by hearing officers of the Hearings and Appeals Division of the Office of Policy and Hearings, and decisions made in minor misconduct hearings;

2. The content of administrative rules, policy directives, operating procedures and Director's Office Memoranda;

BEST AVAILABLE COPY Monday, October 17, 2005.max

3. Decisions made by the Parole Board and recommendations made by its hearing officers to grant, rescind, amend or revoke parole;

4. Issues which affect the entire prisoner population or significant numbers of prisoners. Such issues in CFA may be brought to the attention of the administration as provided in PD 04.01.150. Two or more prisoners may not jointly file a single grievance regarding an issue of mutual impact or submit identical individual grievances regarding a given issue as an organized protest.

G. Prisoners and parolees are required to file grievances in a responsible manner. A grievance shall be rejected by the Grievance Coordinator if it contains profanity, threats of physical harm or language which demeans the character, race, ethnicity, physical appearance, gender, religion or national origin of any person, unless it is part of the description of the grieved behavior and is essential to that description. A grievance may be rejected for the following reasons:

1. It is duplicative, vague, illegible or contains multiple unrelated issues.

2. The grievant does not indicate s/he attempted to verbally resolve the issue with the staff member involved prior to filing the grievance unless prevented by circumstances beyond his/her control.

3. The grievance is filed in an untimely manner. The grievance shall not be rejected if the grievance provides a valid reason for the delay; e.g., transfer.

H. A prisoner or parolee whose grievance is rejected may appeal the rejection to the next step as set forth in this policy.

I. Grievances shall not be placed in Counselor files, Record Office files, field files or Central Office files, nor shall they be referenced on any document placed in these files except as necessary pursuant to Paragraph K. Grievance documents and files shall be accessed only to investigate or respond to a pending grievance, to respond to a request under the Freedom of Information Act, to respond to a request from the Office of the Legislative Corrections Ombudsman, the Department of Attorney General or appropriate Central Office staff, for audits, or for statistical reporting.

J. A grievant shall not be penalized in any way for filing a grievance except as provided in this policy for misusing the grievance process. Staff shall avoid any action that gives the appearance of reprisal for using the grievance process or for assisting other grievants in its use. If a grievant believes s/he has been subjected to acts of reprisal, s/he may file a grievance.

K. If a grievant intentionally files a grievance which is investigated and determined to be unfounded which, if proven true, may have caused an employee or a prisoner to be disciplined, or may have caused an employee to be subjected to corrective action, the grievant may be placed on modified access consistent with Paragraphs JJ through NN of this policy. In addition, if the grievant is a prisoner, s/he may be issued a misconduct report if approved by the Warden or Area Manager. The misconduct report shall be processed as set forth in PD 03.03.105 "Prisoner Discipline".

L. Wardens and FOA Area Managers shall ensure a prisoner is provided assistance in completing a grievance form, if needed. In such cases, assistance shall be provided by a staff member who is not involved in the grievance.

M. The OPS Administrator shall ensure that a computerized grievance tracking system is developed and made available for use by OPS and Grievance Coordinators.

HURON VALLEY CENTER

N. Grievances filed by a prisoner at the Huron Valley Center (HVC) involving the prisoner's incarceration (e.g., time computation, disciplinary credits, good time, annual review and restoration, access to law books from the Huron Valley Men's Facility) shall be forwarded to the Grievance Coordinator at the Huron Valley Men's Facility for processing and response.

O. Grievances filed by a prisoner at HVC relating to the prisoner's treatment and living conditions (e.g., quality of the food, room temperatures, not receiving hygiene items, complaints regarding staff, visitor restrictions that are incorrectly imposed) shall be responded to by the Department of Community Health (DCH), using the patient grievance process developed by DCH. Grievances answered at the Step III level by the Director of the Bureau of Forensic Mental Health Services shall be forwarded to the Prisoner Affairs Section, OPS, for record keeping.

Grievance Coordinators

P. In SAI and in each CFA institution, the Warden shall designate at least one staff member to serve as Step I and Step II Grievance Coordinators. The FOA Deputy Director shall designate staff members to serve as Step I and Step II Grievance Coordinators for each FOA field office, corrections center and Technical Rule Violation Center (TRV).

Step I Grievance Coordinator

Q. The responsibilities of the Step I Grievance Coordinator shall include:

1. Logging in and assigning a number to each Step I grievance, including those which may be rejected or returned to the grievant for any reason. Where available, the Grievance Coordinator shall use the computerized grievance tracking system to log in and assign numbers to Step I grievances.

2. Rejecting grievances consistent with this policy and returning to the grievant with explanation as to the reason for rejection.

3. Reviewing each grievance accepted at Step I and assigning a respondent to interview the grievant and prepare a written response to the grievance.

4. Ensuring that a response is prepared for each Step I grievance accepted, that a thorough investigation of the grievance is completed, and that the response is reviewed by the respondent's supervisor and is returned to the Grievance Coordinator within the prescribed time limits.

5. Preparing and submitting monthly reports to the Prisoner Affairs Section, OPS, as directed by the OPS Administrator.

6. Processing extension requests as set forth in Paragraph V.

7. Processing Step III responses returned from the Prisoner Affairs Section, OPS.

R. The Grievance Coordinator may respond at Step I to grievances which can be responded to with minimal investigation or rejected for reasons authorized by this policy. However, if the Grievance Coordinator responds to the merits of the grievance, a grievance interview must be conducted as required in Paragraph AA.

Step II Grievance Coordinator

S. The responsibilities of the Step II Grievance Coordinator shall include:

1. Logging in each Step II grievance, including those which may be rejected or returned to the grievant for any reason. Where available, the Grievance Coordinator shall use the computerized grievance tracking system to log in Step II grievances.

2. Rejecting grievances consistent with this policy and returning to the grievant with explanation as to the reason for rejection.

3. Reviewing each grievance accepted at Step II and assigning a respondent.

4. Ensuring that a response is prepared for each Step II grievance accepted, that further investigation is completed as needed, and the grievance is returned to the coordinator within the prescribed time limits.

GRIEVANCE PROCESS

T. In an effort to resolve grievable issues as soon as possible, prior to submitting a written grievance, the grievant shall attempt to verbally resolve the issue with the staff member involved within two business days after becoming aware of a grievable issue, unless prevented by circumstances beyond his/her control. If the complaint is not resolved, the grievant may file a Step I grievance. A Step I grievance also may be filed in accordance with OP 03.02.130-A "State Administrative Board Prisoner Property Reimbursement" if the grievance is seeking reimbursement for property lost or destroyed while in the Department's sole possession. If the grievant is dissatisfied with the Step I response, or does not receive a timely response, s/he may appeal to Step II. If the grievant is dissatisfied with the Step II response, or does not receive a timely response, s/he may appeal to Step III.

U. The grievant shall use the Prisoner/Parolee Grievance form (CSJ-247A) to file a Step I grievance and the Prisoner/Parolee Grievance Appeal form (CSJ-247B) to file a Step II or Step III grievance. The information provided shall be limited to the issue being grieved, and shall be as specific as possible. Information shall be confined to the form and shall not be written on the back, sides or margins of the form, or in the response area. Additional pages may be attached, if necessary. However, grievants are encouraged to limit the information to the grievance form. If additional pages are used, the grievant shall submit four copies of each additional page. Grievants may handwrite the grievance provided the handwriting is legible.

V. The total grievance process from the point of filing a Step I grievance to providing a Step III response shall be completed within 90 calendar days unless an extension of 15 business days has been requested by the Grievance Coordinator or the Prisoner Affairs Section at one of the steps in the grievance process, and has been granted by the grievant. The Grievance Coordinator shall provide the grievant with a copy of the approval with the grievance response. If an extension is requested by the Grievance Coordinator or the Prisoner Affairs Section, but it is not granted by

the grievant, the respondent shall note this in the response. Time limitations shall be adhered to by the grievant and staff in all steps of the grievance process.

W. If a grievant chooses to pursue a grievance which has not been responded to by staff within the required time frames set forth below, the grievant may forward the grievance to the next step of the grievance process within ten business days after the response deadline expired, including any extensions which have been granted.

X. Prisoners and staff who may be involved in the issue being grieved shall not participate in any capacity in the grievance investigation, except as necessary to provide information to the respondent.

Step I

Y. Within five business days after discussing a grievable issue with staff, a grievant may submit a completed Prisoner/Parolee Grievance form (CSJ-247A) to the Step I Grievance Coordinator designated for the facility, field office or other office being grieved. If the office being grieved does not have a designated Grievance Coordinator, the grievant shall submit the grievance to the Step I Grievance Coordinator for the facility in which s/he is housed or appropriate field office for processing.

Z. The Grievance Coordinator shall assign an appropriate respondent and identify the date by which the response is due. If the issue is of an emergent nature, the Grievance Coordinator may order a Step I response within two business days. The respondent shall generally be the supervisor of the person being grieved. The respondent for grievances involving hearing officers or hearings conducted by the Office of Policy and Hearings shall be the Administrator of the Office of Policy and Hearings or designee. The respondent for grievances involving the Parole Board shall be the Parole Board Chairperson or designee.

AA. The grievant shall be interviewed by the respondent unless the grievant refuses to participate in the interview, or the respondent is not assigned to the location at which the prisoner is confined or does not have ready access to the FOA office to which the parolee is assigned. If the grievant is not interviewed, the reason shall be included in the written response to the grievance. The grievant shall have the opportunity to explain the grievance more completely at the interview, enabling the Step I respondent to gather any additional information needed to respond to the grievance. The interview also provides the opportunity to resolve the grievance to the mutual satisfaction of the grievant and the Department.

BB. The Step I respondent shall identify in the response the policies, rules or procedures that are directly related to the issue or conduct being grieved. Each Step I grievance response shall be reviewed by the respondent's supervisor prior to the grievance being returned to the Step I Grievance Coordinator to ensure that it appropriately addresses the issue raised in the grievance and accurately reflects Department policy and procedure. Where there is limited staffing in an FOA field office, corrections center or TRV, the requirement for supervisory review of a Step I response shall not apply if the response is prepared by an FOA supervisor/manager.

CC. A Step I grievance response shall be returned to the grievant by the Step I Grievance Coordinator within 15 business days after receipt of the grievance, unless an extension has been granted pursuant to Paragraph V.

Step II

DD. If a grievant is dissatisfied with the response received at Step I, s/he may request a Prisoner/Parolee Grievance Appeal form (CSJ-247B) from the Step I Grievance Coordinator within five business days after receiving the Step I response. The grievant must submit the completed form CSJ-247B to the Step II Grievance Coordinator designated for the facility, field office or other office being grieved within five business days after receiving the CSJ-247B from the Step I Grievance Coordinator.

EE. The Grievance Coordinator shall assign an appropriate respondent and indicate the date by which the response is due. The respondents for Step II grievances shall be as follows:

1. The Warden in CFA facilities and SAI, except that s/he may delegate this responsibility to the appropriate Deputy Warden if more than one institution is supervised. If the Warden supervises a camp, s/he may delegate this responsibility for camp grievances to the Assistant Deputy Warden at the camp.

2. The appropriate Area Manager for FOA area offices, corrections centers and TRVs.

3. The Regional Health Administrator or designee in grievances alleging inadequate medical care.

4. The Administrator of the Bureau of Correctional Industries or designee for grievances involving that Bureau.

5. The Administrator of the Office of Policy and Hearings for grievances involving that Office.

6. The Parole Board Chairperson for grievances involving the Parole Board.

7. The Regional Business Manager for Region III, CFA, in grievances involving administrative support functions for CFA facilities in Jackson.

FF. A Step II grievance response shall be returned to the grievant by the Step II Grievance Coordinator within 15 business days after receipt of the Step II grievance, unless an extension is granted pursuant to Paragraph V.

Step III

GG. If a grievant is dissatisfied with the response received at Step II, s/he may file a Step III grievance by completing a Prisoner/Parolee Grievance Appeal form (CSJ-247B) and submitting it to the Prisoner Affairs Section, OPS, within ten business days after receiving the Step II response.

HH. The Director or designee shall be the respondent for Step III grievances.

II. A grievant may file a grievance alleging racial or ethnic discrimination and staff brutality or corruption directly to Step III. A grievant also may file a grievance directly to Step III regarding his/her removal as a housing unit representative by the Warden or CFA Deputy Director pursuant to PD 04.01.150 "Prisoner Representatives". Upon receipt, the grievance shall be carefully reviewed to

determine whether to respond directly to the grievance, request an investigation into the issue raised in the grievance, or return it to the grievant for filing at Step I.

MODIFIED ACCESS

JJ. A prisoner or parolee who files an excessive number of grievances which are frivolous, vague, duplicative, non-meritorious, raise non-grievable issues, or contain prohibited language as set forth in Paragraph G, or who files an unfounded grievance as set forth in Paragraph K, may have access to the grievance process limited by the Warden or FOA Area Manager for an initial period of not more than 90 days. If the prisoner or parolee continues to file such grievances while on modified access, the Warden or FOA Area Manager may extend the prisoner's or parolee's modified access status for not more than an additional 30 days for each violation.

KK. The Warden or FOA Area Manager, as appropriate, shall ensure that a prisoner or parolee placed on modified access, or who that status extended, is immediately notified in writing of this determination. The Warden or FOA Area Manager also shall immediately notify the Prisoner Affairs Section, OPS, in writing whenever s/he places a prisoner or parolee on modified access or extends that status.

LL. The Prisoner Affairs Section, OPS, also may place a prisoner or parolee on modified access for the reasons set forth in Paragraph JJ. The Prisoner Affairs Section shall immediately notify in writing each prisoner or parolee it places on modified access or who has that status extended. The Prisoner Affairs Section also shall immediately notify the appropriate Warden or FOA Area Manager in writing of this determination.

MM. While on modified access, the prisoner or parolee shall be able to obtain grievance forms only through the Step I Grievance Coordinator. A grievance form shall be provided if the Step I Grievance Coordinator determines that the issue the prisoner or parolee wishes to grieve is grievable and otherwise meets the criteria outlined in this policy. The Grievance Coordinator shall maintain a record of requests received for grievance forms and whether the request was approved or denied. If a prisoner or parolee on modified access attempts to file a grievance using a form not provided by the Grievance Coordinator, the prisoner or parolee shall be notified that the grievance will not be processed. The Warden or FOA Area Manager also may extend the prisoner's or parolee's modified access status for not more than an additional 30 days for each violation.

NN. A prisoner or parolee shall remain on modified access for the approved period even if transferred to another facility.

OPERATING PROCEDURE

OO. The OPS Administrator shall ensure that within 60 days of its effective date operating procedures necessary to implement this policy directive is developed.

III. AUDIT ELEMENTS:

PP. A Primary Audit Elements List has been developed and will be provided to Wardens, the SAI Administrator, FOA Regional Administrators and the OPS Administrator to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: Bill Martin 10/9/00

Bill Martin, Director — Date